

Additional Information for my Lord Gray.

A G A I N S T

The Laird of Pourie.

THE Laird of *Pourie* finding that my Lord *Gray* in his former Information to the Parliament had fully and clearly taken off, and cancelled all the reasons adduced by *Pourie* for overturning an unanimous Decree of the Lords of Session, assailing My Lord *Gray* from *Pourie's* action of warrandice intended against him, and not being willing to give it over so soon, he hath as his last Effort drawn and dispersed a new Information stuffed with gross and Calumnious misrepresentations in matter of Fact, which scarce merit any answer, and is needless to answer otherways then by opposing the plain grounds of Law and Reasons contained in my Lord *Gray's* former Information; Yet lest *Pourie* should take advantage by the Defenders silence, and to take off any scruple that may remain with the Honourable Members of Parliament; The following answers are briefly made by my Lord *Gray* to *Pourie's* Additional Information.

And 1^{mo}. whereas he denies that he exacted the *Size fish*, otherways then they were formerly uplifted by the Lord *Gray*, or by *Kid of Craigie*, who had a Wodset thereof from the *1st Grays* predecessors. It is answered, His rigorous and extraordinary exacting of the *Size fish*, was notour to the whole Country, which consisted in two particulars; First, In changing the place of drawing the *Size fish* from the Craige of *Broughtie*, to the Mercat of *Dundee*, thereby disturbing the Mercat, and hindering the people from selling their Fish. 2. In exacting the *Size fish*, whenever the Boats went to sea, albeit they caught nothing, by doubling the Exaction, and taking twice as much as his due from the Boats, when ever they came in Loaded, which was never formerly practised by the former Heritors, and was so intollerable a Servitude and Burden, That the Earl of *Perth* declared, That in case *Pourie* prevailed in his Declarator, for constituting the Servitude, he would rather have given up his Fishing, and broken his whole Boats, then been lyable to such a grievous burden.

2. As to *Pourie's* denying that he gave any Money for procuring the Bargain to any person whatsoever. It is Answered, That it is notcurly known, That my Lord *Gray* got only 20 00 Merks for *Broughtie*, albeit there be 21000 Merks insert in the Disposition which *Pourie* got blank as to the Sum, and filled it up since he intended his Action of Warrandice, before the Lords of Session, neither can he deny, that there was a 1000 M: given to one as a Gratification, who had influence to procure him the Bargain, but it is not material, whether he gave any such Gratification or not, the Bargain being most advantageous, albeit he had payed the whole 21000 Merks therefore, and whether the Lands were sold by a fixed and stated Rental or not, it imports nothing, since he cannot deny but the Lands of *Broughtie* payed the Rent mentioned in my Lord *Gray's* Information. *Viz*, 1200 Merks, and a Hoghead of Wine for the Salmon Fishing, and 230 Merks, with a Barrel of Salmon of a new Duty, which is a very considerable Rent for so small a price, albeit he had not the casualty of the *Size Fish* to the bargain, and which Rent hath been constantly payed to *Pourie* since his purchase thereof 20 years bypast, until within these two or three years that the Fishing fell in his own hands, The Tacksmen being unwilling to continue their Possession any longer, upon the account of *Pourie's* rigor and severity, And albeit *Craigie* got a Wodset of the whole for 10000 Merks, sayes nothing to diminish the Rent thereof since it was certainly a very lucrative Wodset and made great accession to *Craigie's* Estate, whereof *Pourie* was so conscious, that he caused insert in the Disposition granted to him by my Lord *Gray*, of the Lands of *Broughtie* and



an assignation to and action of Compt and reckoning competent against *Craigie*, that he might call him to accompt for the superplus Rents, and if need were it could be proven that his own Tacksmen of the Salmond Fishing allannarly made in one year 5000 Merks of neat profit.

3^{to}. Whereas he asserts, That the *Size Fish* is expressly contained in the Ancient Writes, And particularly in *Craigies Wodset*; It is answered, it is a most calumnious Allegance, and evidently redargued by *Pannures* Decreet of Immunitie, for if the *syze fish* had been contained in the Ancient Writes, *Pourie* would have certainly prevailed against the Earl, and he would not have been straitned to obtrude Prescription.

4^{to}. *Pourie* denies that there are six Boats yet lyable in payment of the *Size fish*; And that whether it were so or not, *nihil refert*, since all the other Fishers did forbear to pay, after the Lord *Pannure* was assolizied, and it would be in vain to insist against them, being in the same case with these assolized. It is Answered, since *Pourie* cannot contravert, but that there were ten Boats lyable for *Size fish*, whereof he was in possession for many years after his purchase, and that there are only four Boats belonging to *Pannures* Tenents, declared free; How is it possible but six must still remain, and if *Pourie* has no mind to exact the *Size fish* from these that are Lyable, that ought not to prejudice my Lord *Gray*, neither are *Pannures* Tenents and the other Fishers, who yet remain and are lyable in payment of the *Size fish*, any wayes in the like Circumstances, *Pannure* being assolizied, because the Prescription was not compleated against him, through his Minority, and *Pouries* acquiting a Wodset Right of the Lands lyable in payment of the *Size fish*, which Objection being personal, both to the Earl of *Pannure*, and against *Pourie*, is not competent to any others lyable in payment.

5^{to}. As to that pretence, That the *Syze fish* are disposed in as clear Terms, as the Salmond fishing, and consequently cannot be reputed part and pertinent, there being no mention made of the number of the Salmond and Cobles, more then of the *size fish* neither was it necessary to mention the *Size Fish* more particularly in the Disposition, since they were nottout to the whole Countrey, and these words in the Disposition [*liberis belonging*] must be applyed to the General clause of (*all other Fishings*) immediately preceeding, and not to the *size fish*, To which it is answered, That the parallel between the Salmond fishing and the *size fish* is not at all, in so far as the Salmond fishing is specially narrated in all the Rights mentioned in *Pouries* Disposition, and was alwayes a part of the Rental, but the *size fish* is neither mentioned in these Rights, nor is a part of the Rental; 2^{da}. The Salmond fishing is *inter Regalia*, and does not fall under the general Designation of part and pertinent, but must be particularly disposed. 3^{ia}. That the *size fish* is only a pertinent, is clear from the grounds adduced in my Lord *Gray's* former Information, which is needless here to repeat. 4^{to}. The Salmond fishing is a positive Right, belonging either to the King, or Heritor of the *Alvens*, or Channel of the Water, where the fishes are taken; And the Emoluments thereof does arise out of the Heritors own property, whereas the *size fish* is no proper separate Right; but a servitude upon another mans right, which does not fall under any Action of Recourse upon Warrandice.

Lastly, As to *Pouries* mismanagement of the Process, the same is clearly instructed by *Pannures* Decreet of immunity, which bears expressly that *Pourie* did omit to interrogate the Witnesses adduced for proving that prescription upon the number of years, that my Lord *Grays* Predecessors possessed the *Size Fish*; And if the Witnesses had been so interrogated, the prescription had been undoubtedly proven, And albeit he has the confidence to affirm, that *Craigie* was present at the Examination of the Witnesses, and might have supplied the said Omission, Yet that is so grossly false, That *Craigie* is willing to give his Oath, that he was not within eight myles of that place, where the Witnesses were examined at the time; And since *Pourie* asserts such gross misrepresentations, which are so plainly redargued, All the other Allegances contained in his Information depending meerly upon his own Testimony, and destitute of the least presumption of Truth, ought no wayes to be regarded, but Rejected as all of one piece.

In Respect thereof, &c.

